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Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Note by the Secretariat

The present report provides reflections on the challenges and opportunities for small and medium-sized enterprises in the implementation of the Guiding Principles on Business and Human Rights. It highlights the role of these enterprises in global supply chains and their impact on human rights, and the roles of Governments, business associations and international organizations in providing essential support to these enterprises in their implementation of the Guiding Principles. The aim of the report is to serve as a starting point for discussions on how these enterprises can scale up implementation of the Guiding Principles.

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I. Introduction

A. Background, aims and outline

1. In the present report, the Working Group on the issue of human rights and transnational business enterprises and other business enterprises examines the importance for small and medium-sized enterprises of implementing the Guiding Principles on Business and Human Rights, with a particular focus on the challenges and opportunities for such efforts.

2. The report is prepared as part of a wider effort of the Working Group to promote implementation of the Guiding Principles and to clarify and elaborate on practical implications. It is intended to represent an initial assessment of an important but complex subject, in the hope of prompting further discussions among stakeholders on more refined and nuanced ways of supporting and strengthening the ability that small and medium-sized enterprises have in meeting their responsibilities to implement the Guiding Principles.

3. Section I includes an assessment of contextual issues, including the definition of small and medium-sized enterprises, the global economic environment in which they operate and their human rights responsibilities. Section II includes an overview of existing tools and guidance, and the various capacity-building initiatives. It also includes a review of the roles of specific stakeholders, including business initiatives and associations, trade unions, international organizations and Governments, and examples of good practices. Section III includes conclusions and recommendations on how to strengthen the role of these enterprises in preventing and addressing adverse human rights impacts, in line with the Guiding Principles.

B. Basic characteristics of small and medium-sized enterprises

4. The boundaries between small, medium and large enterprises are fluid and differ between nations. There are no consistent naming conventions: some countries differentiate between small and medium, or introduce the concept of a micro-enterprise, while others do not. However, some key variables — such as size, legal status, sector, resources, employment, turnover, capital investment and balance sheet totals — are considered in most definitions. Most commonly, small and medium-sized enterprises are defined as a business with fewer than 250 employees.[1]

5. The differing visions concerning small and medium-sized enterprises reflect how difficult it is to engage in a coherent manner with such a diverse business community. Aside from certain definitions, there is more that divides these enterprises than unites them, including geography, sector, operating contexts, development levels and governance. It therefore makes little sense to identify a "typical" enterprise or a "typical" human rights footprint in order to determine how business and human rights interact.

6. Small and medium-sized enterprises are of paramount importance to a country's economy, as they contribute to economic growth, foster innovation and economic diversification and create jobs, all of which have a positive impact on the livelihoods of individuals.[2] The International Labour Organization (ILO) has estimated that there are between 420 and 510 million such enterprises globally (excluding the many micro-enterprises that comprise fewer than 10 employees). Of those, an estimated 80-95 per cent are in low- and middle-income countries. In countries of the Organization for Economic Cooperation and Development (OECD), small and medium-sized enterprises are estimated

[1] For examples of different definitions, see International Labour Organization, *Small and medium-sized enterprises and decent and productive employment creation* (Geneva, 2015). See also https://unstats.un.org/unsd/industry/meetings/eg2005/AC105-22.pdf and https://stats.oecd.org/glossary/detail.asp?ID=3123.

[2] See www.oecd.org/cfe/smes/2090740.pdf.

to account for over 95 per cent of all enterprises.[3] Furthermore, ILO estimates that, globally, they provide two thirds of all employment.[4]

7. While there is a wealth of research on how small and medium-sized enterprises contribute to economic development and employment generation, ILO has indicated that data is lacking on the quality of employment in them. The information available indicates that working conditions in these enterprises are generally worse than in larger business enterprises.[5] At the same time, they are often an important source of employment for groups who are particularly vulnerable to social and economic deprivation, including women, older persons and less-skilled workers.

8. Despite the discrimination women continue to face in all regions, it is estimated that in emerging markets around one third of formal small and medium-sized enterprises are fully or partially owned by women.[6] Gender-specific constraints, including discriminatory laws and practices concerning women's economic rights and legal capacity, also contribute to the fact that a higher proportion of women-run small and medium-sized enterprises are not formally registered.[7]

9. ILO estimates that, worldwide, a significant number of small and medium-sized enterprises operate in the informal economy. In some developing countries, there are more informal enterprises than formal. For example, it is estimated that, in India, there are 17 times more informal, unregistered enterprises than formal.[8] While the number of informal business enterprises vary significantly between countries, ILO estimates that the informal economy accounts for between half and three quarters of all non-agricultural employment in developing countries.[9] Moreover, data from 47 low- and medium-income countries shows that, in general, more men work in informal enterprises than women, with the exception of sub-Saharan Africa, where the percentage of women employed in the informal sector is generally higher.[10]

10. The high number of small and medium-sized enterprises in the informal economy poses specific challenges for the implementation of the Guiding Principles. ILO has highlighted that the informal economy encompasses the informal sector and informal employment and is defined as all economic activities by workers and economic units that are, in law or in practice, not covered or insufficiently covered by formal arrangements.[11] There have been attempts to identify the linkages between the formal and informal economics, including the argument that there is some degree of interaction between both types of economy. There is a linkage between the informal economy and a heightened risk of adverse human rights impacts because of the way the informal economy operates outside of legal and regulatory frameworks and therefore more easily escapes human rights and labour law mechanisms of oversight and social protection. Workers in the informal sector do not have legal and social protection through their work and are generally not unionized, and their working conditions more easily escape the oversight of labour inspectorates. As informal businesses are often diffused and unorganized, it is more difficult and more expensive for authorities to work with these businesses to help implement standards and to track and enforce implementation.

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[3] See OECD Policy Brief "Small and Medium-sized Enterprises: Local Strength, Global Reach" (Paris, 2000). Available from www.oecd.org/cfe/leed/1918307.pdf.

[4] See http://ilo.org/global/topics/employment-promotion/small-enterprises/lang--en/index.htm.

[5] See ILO (2005), *Report IV: Small and medium-sized enterprises and decent and productive employment creation*, pp. vi, 23.

[6] See International Finance Corporation, *Strengthening Access to Finance for Women-Owned SMEs in Developing Countries* (Washington, D.C., 2011), p. 6.

[7] Ibid, p. 7.

[8] See ILO, *Report IV* (footnote 5 above), p. 5.

[9] See ILO, *Women and Men in the Informal Economy: A Statistical Picture* (2013), p. 8. Available from www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/publication/wcms_234413.pdf.

[10] Ibid, p. 15.

[11] See http://www.ilo.org/global/topics/wages/minimum-wages/beneficiaries/WCMS_436492/lang--en/index.htm.

11. A significant feature of small and medium-sized enterprises, arising principally from their smaller size, is what has been termed their "resource poverty".[12] That is, a poverty not only of financial resources but also in terms of areas such as knowledge, expertise and trained or qualified staff. Millions of such enterprises lack access to financial services; between 45 and 55 per cent of these that are formally registered do not have access to formal institutional loans or overdrafts, despite a need for such facilities and the fact that these enterprises provide 45 per cent of total employment in the developing world.[13] This handicap has been compounded by the 2008 financial crisis and its aftermath. Such financial poverty means that many enterprises enter the market with only a single product and without the finance to diversify their offerings, even if this were considered to be strategically desirable.[14] Furthermore, the salary of an owner-manager represents a much larger portion of revenue than in a larger company, meaning that there may be insufficient resources to pay for additional professional staff with a mandate to ensure compliance with the responsibility to respect human rights.

12. Given their lack of financial capital, small and medium-sized enterprises turn increasingly to human capital, which is a fundamental element to their success. However, despite this, these enterprises often experience poor staff planning, multifunctional management, high employee turnover, low productivity, difficulties in recruiting quality staff and an inability to adequately test and train employees in advance. In particular, bureaucracy and regulation remain a burden for them, in both developed and developing countries, while reducing costs and expenses is their top business ambition. Finally, they may not be able to afford to pay for the kind of professional services, including accounting and reporting, that new initiatives may require.[15]

13. In November 2016, the International Organization of Employers and ILO produced a report on their joint survey of small and medium-sized enterprises and human rights.[16] According to their findings, the most cited challenge for these enterprises included a lack of resources (46 per cent of respondents), followed by uncertainty about responsibilities in the light of government duties (36 per cent), the poor enforcement of national law in practice (36 per cent), the difficulty of operating in situations where fundamental economic, ecological and social standards were not part of national law (31 per cent) and the difficulty of translating policy commitments into relevant operational procedures (29 per cent).

14. The limited resources of small and medium-sized enterprises and the difficulties they face regarding identification and their predominantly informal character have led some enterprise owners and academics to claim that regulations regarding corporate social responsibility — and by implication human rights — would be counterproductive,[17] in particular owing to the added bureaucracy that would divert resources from actually improving behaviour.[18] However, there is evidence to the contrary in the way such enterprises respond to regulatory standards, including those concerning environmental sustainability, anti-corruption, human trafficking and health and safety. The lessons of how small and medium-sized enterprises implement such compliance standards can be very useful for the implementation of the Guiding Principles.

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[12] J. Welsh and J. White, "A Small Business Is Not a Little Big Business", *Harvard Business Review*, (July 1981). Available from https://hbr.org/1981/07/a-small-business-is-not-a-little-big-business.

[13] See Global Partnership for Financial Inclusion, "Report to the Leaders" (2011), p. 4. Available from www.oecd.org/g20/summits/cannes/Global%20Partnership%20for%20Financial%20Inclusion%20Report%20to%20Leaders.pdf.

[14] D.J. Storey, *Entrepreneurship and the New Firm* (London, 1982).

[15] See "A Small Business Is Not a Little Big Business" (footnote 12 above).

[16] Available from www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---ifp_seed/documents/publication/wcms_535220.pdf.

[17] See Baden, Harwood and Woodward, "The effect of buyer pressure on suppliers in SMEs to demonstrate CSR practices: An added incentive or counterproductive?" *European Management Journal*, No. 27, p. 429; and Yves Fassin, "SMEs and the fallacy of formalizing CSR" *Business Ethics: A European Review*, Vol. 17, Iss. 4, p. 364.

[18] See European Commission, "Opportunity and Responsibility: How to help more small businesses to integrate social and environmental issues into what they do (2007), p. 4. Available from www.een-portugal.pt/info/RSO/Documents/Opportunity%20and%20Responsibility.pdf.

C. Human rights responsibilities of small and medium-sized enterprises

15. According to Guiding Principle 14, "the responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure. Nevertheless, the scale and complexity of the means through which enterprises meet that responsibility may vary according to these factors and with the severity of the enterprise's adverse human rights impacts".

16. This means that all business enterprises, from small and medium-sized enterprises to large multinational enterprises, are expected to exercise human rights due diligence (as described in Guiding Principles 17 to 21), to avoid causing or contributing to adverse human rights impacts, and to take steps to mitigate and address any such adverse impact that is directly linked to their operations, including by cooperating in their remediation.

17. Small and medium-sized enterprises may have less capacity and more informal processes but their impact upon human rights can be just as significant as transnational corporations. At the same time, the steps needed to prevent and address such human rights impacts could be less complex for a small company than a large transnational corporation. According to the Office of the United Nations High Commissioner for Human Rights (OHCHR), the approaches needed to embed respect for human rights in a smaller enterprise's operations can often mirror the lesser complexity of its operations. However, size is never the only factor in determining the nature and scale of the processes necessary for an enterprise to manage its human rights risks. The severity of its actual and potential human rights impact will be the more significant factor. For instance, a small company of fewer than 10 staff that trades minerals or metals from an area characterized by conflict and human rights abuses linked to mining has a very high human rights risk profile. Its policies and processes for ensuring that it is not involved in such abuses will need to be proportionate to that risk.[19]

18. Simple steps can be taken by small and medium-sized enterprises to respect human rights, and the Guiding Principles set out the path to follow. First, business enterprises will be expected to identify and assess any actual or potential adverse human rights impacts with which they may be involved, either through their own activities or as a result of their business relationships. Such enterprises should utilize the Guiding Principles, in particular pillar 2 (Principles 16 to 22) to assess their human rights impacts. In doing so, they may need to consult directly with potentially affected stakeholders and draw on external human rights resources and expertise. On the basis of an assessment of risks, these enterprises should take action to prevent and mitigate any adverse human rights impacts (Principle 19), track the effectiveness of such action (Principle 20) and be prepared to communicate externally how they address their human rights impacts, or report formally on this, in cases where their operations pose risks of severe human rights impacts (Principle 21). Where small and medium-sized enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation (Principle 22), including though internal, industry or multi-stakeholder grievance mechanisms (Principles 29 to 31), in alignment with the effectiveness criteria of the Guiding Principles for non-judicial grievance mechanisms.[20]

19. For a long time, small and medium-sized enterprises have been involved in debates, initiatives and activities concerning corporate social responsibility. For example, a 2002 report[21] found that half of such enterprises in Europe had been involved in external socially responsible activities, including some related to compliance with human rights standards.

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[19] See OHCHR, *The Corporate Responsibility to Respect Human Rights: An Interpretative Guide* (New York and Geneva, 2012), p. 20. Available from www.ohchr.org/Documents/Publications/HR.PUB.12.2_En.pdf.

[20] According to Principle 31, for a grievance mechanism to be credible it has to be legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning and based on engagement and dialogue.

[21] See European Commission, *European SMEs and social and environmental responsibility* (2002), p. 7. Available from http://bookshop.europa.eu/en/european-smes-and-social-and-environmental-responsibility-pbNB1401004/.

However, these enterprises were not noticeably active in the processes leading up to the publication of the Guiding Principles in 2011. This is perhaps not surprising, as the primary focus of international efforts to develop business and human rights standards has been on transnational corporations. Examples of this are the unsuccessful attempt to develop a United Nations code of conduct, the original OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and the Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights (E/CN.4/Sub.2/2003/12/Rev.2).

20. The low level of engagement of small and medium-sized enterprises in the international business and human rights conversation is not only due to the focus on transnational corporations in international policy discussions, but also a reflection of the fact that, in most jurisdictions, the government regulatory and policy departments and agencies that are oriented towards these enterprises either lack the awareness of international human rights standards or view them as irrelevant to smaller enterprises.

II. Implementing the Guiding Principles by small and medium-sized enterprises

A. Opportunities for small and medium-sized enterprises

1. Comparative advantages of small and medium-sized enterprises

21. Small and medium-sized enterprises are more labour-intensive than large business enterprises and often have a greater capacity to absorb labour (including unskilled labour),[22] which can help to lift families and communities out of poverty. Small businesses are usually locally owned and controlled and can therefore strengthen the extended family, as well as other social systems and cultural traditions. Family-owned business enterprises in particular have been found to exhibit strong ethical and philanthropic approaches,[23] which may provide a platform for a wider strategy to respect human rights. Some studies have found size within a company to have a positive effect on responsible engagement,[24] while others have contradicted this[25] or claimed a "U-shape" relationship between size and engagement.[26]

22. There are aspects of small and medium-sized enterprises that may lead to outcomes that are beneficial to human rights. For example, small firms play an important economic and social role in general, and the development and growth of small firms may also help redress social and economic exclusion. Given that they are often deeply embedded in the community context, such enterprises may have a greater understanding of local cultural and political contexts and more links with civil society,[27] which may in turn increase their socially responsible practices.[28] They can also be at the forefront of the struggle against

[22] See H. Rwigema and P. Karungu, "SMME Development in Johannesburg's Southern Metropolitan Local Council: An assessment", *Development Southern Africa*, Vol. 16, Iss. 1 (1999), pp. 107 and 111.

[23] See United Nations Industrial Development Organization (UNIDO), *Corporate Social Responsibility: Implications for Small and Medium Enterprises in Developing Countries* (Vienna, 2002) p. ix. Available from www.unido.org/fileadmin/import/userfiles/puffk/corporatesocialresponsibility.pdf.

[24] See *European SMEs and social and environmental responsibility* (footnote 21 above).

[25] See "Effect of buyer pressure on suppliers in SMEs" (footnote 17 above).

[26] See K. Udayasankar, "Corporate Social Responsibility and Firm Size", *Journal of Business Ethics*, Vol. 83, p. 167 (2008).

[27] See "Effect of buyer pressure on suppliers in SMEs" (footnote 17 above), p. 261.

[28] See Association of Chartered Certified Accountants, "Small business: a global agenda" (2010). Available from www.accaglobal.com/content/dam/acca/global/PDF-technical/small-business/pol-afb-sbaga.pdf.

disadvantage[29] and offer an opportunity to enter the workforce to groups that have been traditionally excluded from employment in large businesses in some States (e.g. women and ethnic minorities). For these groups, self-employment and ownership of small businesses can be a means to engage in economic life. In South Africa, small and medium-sized enterprises have provided critical avenues for non-whites to own businesses, after having been historically discouraged from doing so.[30]

23. Small and medium-sized enterprises are more flexible than their larger counterparts, enabling them to respond better to changes and disturbances in the social environment. Most also have a shorter-term outlook and strategies that are intuitive and opportunistic, which can be both a strength and a weakness. Within local systems of production, such enterprises can often be more flexible and responsive to customer needs than large firms. They can pool resources and share the costs of training, research and marketing with other firms of a similar size and industry.[31] Their products and use of local technology may be more likely to satisfy the needs of poor people than the products of large enterprises using foreign technology,[32] and they can adapt new technologies to gain an edge over larger business enterprises. This flexibility may also facilitate adaptation to new expectations and requirements to respect human rights in line with the Guiding Principles. Small and medium-sized enterprises are potentially "quicker on and off their feet", which allows them to be better placed than major corporate entities to take advantage of the fact that society and the media revere qualities such as honesty, integrity and the ability to say sorry.[33]

2. Need for tailored guidance

24. The dynamic nature of small and medium-sized enterprises may, however, result in their limited strategic capacity, especially over the long term.[34] Furthermore, their limited market share means that they may be heavily reliant on a few customers, or in some cases just one. This dynamic nature also results in their constant creation and destruction: in 2002, it was estimated that 460 million adults around the world were involved in entrepreneurial activity, which could result in the creation of 100 million new businesses.[35] However, in the Philippines, for example, for every 10 people currently starting or running a new business, there are 7 who have discontinued one in the past year.[36] Half of European businesses started in 2001 had ceased operation by 2006.[37]

25. Despite the fact that small and medium-sized enterprises are of vital importance for the promotion of economic growth, job creation and the mitigation of poverty, particularly

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[29] See Association of Chartered Certified Accountants, "Beyond the Equality Bill: embedding equality and diversity in SMEs" (2010). Available from www.accaglobal.com/content/dam/acca/global/PDF-technical/small-business/tech-tp-beb.pdf.

[30] See "SMME Development" (footnote 22 above), p. 111.

[31] See http://www.oecd.org/cfe/leed/1918307.pdf.

[32] See "SMME Development" (footnote 22 above), p. 111.

[33] See N. Sarbutts, "Can SMEs 'do' CSR? A practitioner's view of the ways small- and medium-sized enterprises are able to manage reputation through corporate social responsibility", *Journal of Communication Management*, Vol. 7 (2003), pp. 340 and 346. Available from www.emeraldinsight.com/doi/abs/10.1108/13632540310807476.

[34] See L. Eakin, F. Raiszadeh and H. Hunt, "Just-in-time: a timely opportunity for small manufacturers", *Industrial Management* (January 1990), pp. 16-18.

[35] See P.D. Reynolds et al, "Global Entrepreneurship Monitor: 2002 Executive Report" (Babson College, Ewing Marion Kauffman Foundation, London Business School, 2002). Available from www.eshri.se/gemglobalreport_2002.pdf.

[36] See D. Kelley, S. Singer and M. Herrington, *Global Entrepreneurship Monitor: 2015/16 Global Report* (Entrepreneurship Research Association, 2016). Available to download from www.gemconsortium.org/report.

[37] See H. Schrör, "Business Demography: Employment and Survival" (Eurostat, Statistics in Focus 70/2009), p. 4. Available from http://edz.bib.uni-mannheim.de/www-edz/pdf/statinf/09/KS-SF-09-070-EN.pdf.

in less developed countries,[38] the increased risk associated with their operation also means that very few micro-enterprises ever grow beyond 10 or more employees.[39] One argument for this is attributed to the owners unwillingness to pursue the expansion of their micro-enterprise.

26. Consequently, any guidance on business and human rights targeted at small and medium-sized enterprises must take into account the increased risks of them failing in terms of the content of the guidance and the directions it gives, and must also be aware that the target audience of the guidance will be in constant flux and that owner-managers who understand the importance of business and human rights often will be replaced by new entrepreneurs with new businesses. This means that collective tools and solutions may be most beneficial, so that these enterprises and entrepreneurs have access to shared knowledge and tools that can be deployed readily by new market entrants.

27. Small and medium-sized enterprises are generally perceived as being at the bottom of the supply and value chain. The reality is, however, more nuanced. For example, a significant proportion of them engage in exporting and importing, particularly in more developed countries, with a minority engaging in foreign direct investment.[40] They have links at the top, middle and bottom of the supply and value chain. They are, in effect, the nerves that bind the business fabric together. Tailored guidance should also reflect this reality and bear in mind the roles of other actors and stakeholders in this system.

3. Business case for respecting human rights

28. Alongside the moral and legal case for businesses to respect human rights, there is also an economic one. When businesses analyse their potential markets, they inevitably do so in terms of the risks and opportunities, which, in the case of human rights, can be both. The concept and process of due diligence, including environmental and social impact assessments are ways of determining which decisions to make and why. If a company establishes human rights and sustainability as a baseline for its investments, then it is far less likely to be open to the risk of bad publicity and to investors reacting negatively to their products and services. Therefore, it is vital that time and resources be allocated to the argument for business and human rights and that training, particularly for senior managers, be dedicated to the businesses operating in their host countries and to operating oversees.

29. The rise of the Internet has accelerated the need for more small and medium-sized enterprises to look inward and to assess their own cases for developing human rights frameworks. Customers can exert massive pressure on a company to change the way it does business. Targeted human rights-centred campaigns can have both negative and positive impacts on the goods and services of small and medium-sized enterprises and greatly increase or reduce their market share.

30. The Federation of Small Businesses has suggested that concerns about additional bureaucracy can be countered by highlighting the "business case" for improving human rights as an effective way of encouraging small and medium-sized enterprises to act responsibly and fulfil their responsibility to respect human rights.[41] The European Commission concurs with that approach: in its guidance to such enterprises on implementing the Guiding Principles, it explains how effective implementation of the

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[38] See C.M. Rogerson, "Growing the SMME Manufacturing Economy of South Africa: Evidence from Gauteng Province", *Journal of Contemporary African Studies*, Vol. 19, Iss. 2 (2001), pp. 267-291. Available from www.tandfonline.com/doi/abs/10.1080/02589000120066498.

[39] See D.C. Mead and C. Liedholm, "The dynamics of micro and small enterprises in developing countries", *World Development*, Vol. 26, Iss. 1 (1998), pp. 61-74. Available from http://www.sciencedirect.com/science/article/pii/S0305750X97100109.

[40] See Edinburgh Group, "Growing the global economy through SMEs" (2013), p. 13. Available from www.conta-conta.ro/miscellaneous/863_miscellaneous_contabilitate_files%20863_.pdf.

[41] See Federation of Small Businesses, *Social and Environmental Responsibility and the Small Business Owner* (London, 2008). Available from www.fsb.org.uk/LegacySitePath/policy/assets/CSR%20Dec%202008.pdf.

Guiding Principles may lead to increased revenue for business.[42] Similarly, in a report on the value of sustainability and human rights reporting, the Global Reporting Initiative identified, inter alia, the importance of improving management systems and the opportunity to identify an enterprise's strengths and weaknesses, in addition to attracting, motivating and retaining good quality employees.[43] It also identified external factors, including the enhancement of reputation, attracting funding and achieving competitive advantage and leadership.[44] However, the idea of the "business case" cannot stand alone. First, there may be situations where abusing human rights could have short-term economic gains, which should of course not serve to justify such abuse. Second, enhancing business performance is not necessarily a main motivator for small and medium-sized enterprises to engage in responsible behaviour. However, evidence from the traditional corporate social responsibility field suggests that the extent of engagement in efforts to respect human rights will be influenced by commercial factors, with advantages and disadvantages analysed in the same way as any other commercial decision.[45]

B. Small and medium-sized enterprises in supply chains

31. Small and medium-sized enterprises play an integral role in global supply chains and in the economic development of virtually all countries. Economic policies and strategies often focus on these enterprises rather than transnational corporations because of their importance for employment generation. In a 2013 report, the Fung Global Institute, Nanyang Technological University and World Trade Organization noted how, both in developing and high-income countries, these enterprises were important actors in global supply chains and how their integration into global value chains had been pursued as an important strategy of economic development.[46]

32. Transnational and multinational enterprises also have a part to play in their interaction with small and medium-sized enterprises in global supply chains and implementation of the Guiding Principles. Many large business enterprises, for example, have a supplier code of conduct[47] that must be followed by all small and medium-sized enterprises with which they conduct business.

33. Small and medium-sized enterprises do not operate in a vacuum, and many of them will maintain relationships with larger businesses that may be in a position to assist smaller business enterprises with their business and human rights responsibilities. Indeed, larger business enterprises are expected to help their smaller suppliers to respect human rights as an integral part of their own human rights due diligence in order to prevent adverse human rights impacts directly linked to their business operations through their supply chains or business relationships.

34. Small and medium-sized enterprises are in some cases offered training on human rights and legal compliance through capacity-building programmes, including initiatives that aim to provide a working grievance system, use technology to detect and eliminate

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[42] European Commission, "My Business and Human Rights: A Guide to Human Rights for Small and Medium-Sized Enterprises" (2012). Available to download from http://ec.europa.eu/DocsRoom/documents/10375/attachments/1/translations/en/renditions/native.

[43] See Global Reporting Initiative, "Ready to Report?: Introducing sustainability reporting for SMEs" (2014), p. 6. Available from www.globalreporting.org/resourcelibrary/Ready-to-Report-SME-booklet-online.pdf.

[44] Ibid., p. 7.

[45] See P. Castka et al, "How Can SMEs effectively implement the CSR agenda? A UK case study perspective", *Corporate Social Responsibility and Environmental Management*, Vol. 11, Iss. 3 (2004), pp. 140-141.

[46] See Fung Global Institute, Nanyang Technological University and World Trade Organization, *Global value chains in a changing world* (Geneva, 2013). Available from www.wto.org/english/res_e/booksp_e/aid4tradeglobalvalue13_e.pdf.

[47] See, for example, "Samsung Electronics Supplier Code of Conduct", available from www.samsung.com/us/aboutsamsung/for_partners/downloads/samsung-supplier-code-of-conduct-guide-ver-2-1.pdf.

child labour, establish fair working hours, strengthen monitoring fair work and pay and provide multiple training and consultation programmes for suppliers and new employees.

35. One survey on small and medium-sized enterprises showed some of the ways they are connected to large businesses. There may be connections through formal supply chain relationships, as well as more informal or general links with larger business enterprises. A large proportion of such enterprises (77 per cent) who responded to the survey considered that they were part of a supply chain, with the largest supply relationship contributing between one quarter and one half of the their total turnover in 30 per cent of cases.[48] Their role in the supply chain tended to harness their ability to provide a niche product or service that larger businesses were unable to provide themselves or could not provide as cheaply. Of the businesses who considered that they were part of a supply chain, two thirds provided a standardized product or service, half provided a bespoke product service and one in five provided some form of research and development.

36. Almost half of small and medium-sized enterprises form non-supply chain relationships with larger business enterprises, primarily to become more established in their marketplace and with the hope of gaining additional business. This networking is crucial for such enterprises in sectors dominated by large businesses, which can spur on smaller enterprises in the supply chain to improve technological and human capital.[49] In the above-mentioned survey, one quarter of small and medium-sized enterprises were involved in research and development partnerships with larger business enterprises, while 15 per cent were in more formal joint ventures with large enterprises. A further 15 per cent received some mentoring from a larger business as the latter sought to enhance productivity through their supply chain. Links with larger businesses may provide opportunities for small and medium-sized enterprises to alleviate some of the problems that their resource poverty may cause for the business and human rights agenda. With existing supply-chain relationships already in place, and a culture of mentoring and advice-giving, it is possible to see how human rights due diligence can be implemented through a partnership between smaller and larger businesses and how the latter can both set standards that dictate conditions to the former and support capacity-building to enhance due diligence procedures.[50]

37. Human rights criteria may be a precondition in calls for tender or a factor when choosing suppliers. This seems to work in practice, at least in some instances, and it has been claimed that supply chain pressures are proving to be a more powerful force for social and environmental change than local regulation.[51]

38. In practice, contractual clauses on "respect for human rights" raise a number of questions and challenges. In using such formal business-to-business measures to incentivize alignment with the Guiding Principles, one fundamental challenge is the fact that a typical business contract involving immediate parties may not be able to take account of actors throughout a long supply chain. However, this is primarily a challenge for larger business enterprises with multi-tiered supply chains that, in line with the Guiding Principles, are expected to exercise human rights due diligence across all tiers, beginning with the areas where the risk of adverse human rights impacts is the most significant. For business enterprises with large supply chains, the use of contractual clauses to incentivize suppliers to meet their responsibility to respect human rights can thus potentially provide a useful tool for managing risks throughout extensive networks. There is a risk, however that small and medium-sized enterprises could simply avoid such demands by marketing their products to other competitors that do not utilize contractual clauses and do not prioritize

[48] D. Jamieson et al, *Large Businesses and SMEs: Exploring how SMEs interact with large businesses* (ORC International, 2012). Available from www.gov.uk/government/uploads/system/uploads/attachment_data/file/34639/12-1196-exploring-how-smes-interact-with-large-businesses.pdf.

[49] See "Small business: a global agenda", p. 22 (footnote 28 above).

[50] See L. Spence, "CSR and Small Business in a European Policy Context: The Five 'C's of CSR and Small Business Research Agenda 2007", *Business and Society Review*, Vol. 112, Iss. 4 (December 2007), p. 533.

[51] See G. Starcher, "Responsible Entrepreneurship: Engaging SMEs in Socially and Environmentally Responsible Practices" (European Bahá'í Business Forum, 2005) p. 23.

protection and promotion of human rights within their company ethos. Those that take such a position may have a strategic advantage within the marketplace because those measures may cut production costs. It is therefore imperative that a level playing field be created within a given industry.

39. In fact, lessons on the ground also show that restrictive contracts with small and medium-sized subcontractors may generate adverse human rights practices in certain circumstances, as larger business enterprises knowingly outsource human rights risks to these enterprises. That is an issue that larger business enterprises need to take into account in their own human rights due diligence.[52]

40. The lessons on the ground also suggest that larger business enterprises, including transnational corporations, need to do much more to support and share lessons of social responsibility with the small and medium-sized enterprises in their supply chain. This is not to say that some transnational corporations have not increasingly prioritized training for smaller enterprises in their supply chain in recent years. Some companies have, for example, made policy commitments to promote human rights in their supply chains and provided training and guidance to suppliers.[53]

C. Role of States in supporting small and medium-sized enterprises

41. In the experience of the Working Group, small and medium-sized enterprises expect guidance from Governments, including with regard to their responsibility to respect human rights. In that regard, the above-mentioned report of the International Organization of Employers and ILO confirmed that such enterprises were clear in terms of the support they expected from Government, which was to provide effective guidance to business enterprises (76 per cent), draft and enforce clear laws (75 per cent) and deny access to public support services to firms abusing human rights (49 per cent).

42. The development of small and medium-sized enterprises is a central part of government policy, including through the subsidies, grants and training provided. In economies with significant informal sectors, governments can provide a systematic plan for lifting such enterprises from the informal to the formal economy. Those policy tools and others employed to develop and support enterprises provide opportunities for raising awareness of the concepts in the Guiding Principles and affirm government expectations that all business enterprises within its jurisdiction meet the responsibility to respect human rights. Governments can embed the Guiding Principles as a central policy objective of their programmes relating to enterprises, including as a key part of the training and capacity-building activities that government departments offer. The implementation of the corporate responsibility to respect human rights should also be made a requirement for receiving government subsidies and grants.

43. In countries that are in the process of transitioning informal sector activities to the formal sector, programmes aimed at formalizing the activities of small and medium-sized enterprises provide an entry points to support government promotion of the implementation of the Guiding Principles by enabling outreach to a large section of the enterprise community.

44. A key consideration for Governments in these contexts is the need to "translate" the Guiding Principles and the implications of the corporate responsibility to respect human rights into concepts that are understandable to the local business community and that reflect local human rights challenges. General guidance for small and medium-sized enterprises,

[52] See M. Anner, J. Bair and J. Blasi, "Toward Joint Liability in Global Supply Chains: Addressing the Root Causes of Labour Violations in International Subcontracting Networks", *Comparative Labour Law and Policy Journal* (2013) p. 35. See also R. Locke, *The Promise and Limits of Private Power: Promoting Labour Standards in a Global Economy* (Cambridge University Press, 2013), p. 126.

[53] See, for example, http://corporate.mcdonalds.com/mcd/sustainability/sourcing/workplaces-human-rights.html; www.coca-colacompany.com/our-company/human-rights-policy; and www.nestle.com/aboutus/suppliers.

such as that of the European Commission[54] and the Guiding Principles themselves, can provide useful references for the translation that Governments must do to promote implementation of the Guiding Principles domestically.

45. That task will no doubt have to overcome the traditional psychological hurdle of perceiving small and medium-sized enterprises as local economic growth institutions with little or no focus on social responsibility. However, as all States have a duty to protect human rights from business-related human rights abuse, an important aspect is to foster respect for human rights by such enterprises and other businesses, which should be included as part of a government's overall approach to implementing the Guiding Principles at the national level. The Human Rights Council has called on Governments to develop national action plans on business and human rights,[55] and, as the Working Group explains in its guidance on those plans, such plans need to be developed through an inclusive process involving all stakeholders.[56] In such processes, small and medium-sized enterprises should not be overlooked.

46. An example of this relationship in practice is the Modern Slavery Act 2015 of the United Kingdom of Great Britain and Northern Ireland.[57] While the core obligations — to monitor and control operations and ensure the absence of human trafficking and slavery — only apply to businesses with an annual turnover of more than GBP 36 million, those businesses also have reporting obligations with regard to their supply chains. That means that small and medium-sized enterprises are likely to see contractual requirements in dealings with large businesses, requiring the former to report how they operate in respect of the Act.[58] As a result, small and medium-sized enterprises will have to adopt similar reporting practices as the large businesses with which they establish contracts. Furthermore, along with the rest of the supply chain, they will contribute to efforts to eliminate slavery and human trafficking.

47. Apart from the deliberate policy adjustment necessary to support small and medium-sized enterprises in their implementation of the Guiding Principles, particular attention should be paid to existing and future legislative and regulatory initiatives that have implications for them. Regulation is a key driver for fostering business respect for human rights. For example, the Modern Slavery Act, which was not directly aimed at small and medium-sized enterprises, has in practice proved very relevant to their work.

48. Several existing initiatives provide opportunities to promote further action by States to support small and medium-sized enterprises in implementing the Guiding Principles. For example, in 2010, the Asia-Pacific Economic Cooperation (APEC) launched an initiative on the business ethics for these enterprises in the organization. It has utilized that agreement to develop standard principles for codes of ethics in target sectors, build capacity to assist interested organizations in drafting and implementing codes consistent with APEC principles and generate awareness and collaboration among all key stakeholders.[59] Aligning such efforts with the Guiding Principles could be an effective way of reaching a large number of State-owned enterprises.

49. Business enterprises have called on States to take action to promote the Guiding Principles among them, including small and medium-sized enterprises. In a 2017 statement, the Business 20, part of the official Group of 20 dialogue with the global business community, calls on the Group to promote the Guiding Principles and the OECD Guidelines for Multinational Enterprises in order to strengthen responsible business

[54] Available from http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en.
[55] See Human Rights Council resolution 26/22.
[56] See Working Group on business and human rights, "Guidance on National Action Plans on Business and Human Rights" (2016). Available from www.ohchr.org/Documents/Issues/Business/UNWG_%20NAPGuidance.pdf.
[57] Available from www.legislation.gov.uk/ukpga/2015/30/contents/enacted.
[58] See http://deviant.co.uk/the-modern-slavery-act-2015-a-guide-for-smes.
[59] See http://mcprinciples.apec.org/CMFiles/Resources%202015/GeneralOverview.pdf.

conduct and shape a global level playing field.[40] The Working Group has also called on the member States of the Group to show leadership in promoting implementation of the Guiding Principles by States and business enterprises to advance sustainable supply chains. Such commitment by the Group would build upon the Group of Seven declaration of 2015, in which States expressed their strong support for the Guiding Principles, urging implementation of human rights due diligence by business enterprises and committing to increase their support to help small and medium-sized enterprises develop a common understanding of due diligence and responsible supply chain management.[41]

50. National human rights institutions have also led the way in championing guidance on human rights for business enterprises. The United Kingdom Equality and Human Rights Commission, for example, has published guidance on why human rights are important for business enterprises[42] and specific guidance tailored to small and medium-sized enterprises.[43] Equally, the National Human Rights Commission of Korea has promoted human rights-oriented management culture for these enterprises.[44]

D. Role of trade unions

51. Trade unions play an integral part in the protection of workers human rights and have often been at the forefront of protecting human rights through the participation of their members. In its 2016 Global Rights Index report, entitled "The world's worst countries for workers", the International Trade Union Confederation highlighted four human rights areas where State actions had violated individuals human rights. These included: large-scale exclusion of workers; the violation of the right to collective bargaining, free speech and public protests; and an increase in violence. The Confederation has also published specialized reports that focus on areas of key concerns to trade unions and offer concrete recommendations through identifying problems.

E. Role of business initiatives and associations

52. Business and peer group associations can play an important role in harnessing the potential of small and medium-sized enterprises to develop their capacity to respect human rights. Business associations such as the International Organization of Employers, which claims its member organizations represent a range of businesses — including small and medium-sized enterprises — in 150 countries, are well placed to raise awareness of and promote implementation of the Guiding Principles within the business community. In providing support in terms of training, advice, resources such as benchmarking, and communication standards and indicators, business associations provide such enterprises with opportunities to understand the requirements of the Guiding Principles and to bring together enterprises of similar size and focus and within the same geographical context.

53. The International Chamber of Commerce actively encourages its members to integrate United Nations human rights initiatives into their policies and programmes, and has provided specific information and guidance on human rights to its members.[45]

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[40] See www.b20germany.org/fileadmin/user_upload/documents/B20/b20-handout-recommendations-sdgs.pdf.

[41] See https://sustainabledevelopment.un.org/content/documents/7320LEADERS%20STATEMENT_FINAL_CLEAN.pdf. See also www.elcht.org/EN/News/Events/Pages/DisplayNews.aspx?NewsID=16070&LangID=E.

[42] See https://www.equalityhumanrights.com/sites/default/files/a_guide_to_business_and_human_rights_1_1.pdf.

[43] See https://www.equalityhumanrights.com/sites/default/files/fairness_dignity_and_respect_in_smc_workplaces.pdf.

[44] See www.humanrights.go.kr/site/program/board/basicboard/view?menuid=002002001&boardtypeid=7003&boardid=706169#.

[45] See https://iccwbo.org/global-issues-trends/global-governance/business-and-the-united-nations/.

54. Industry organizations such as the International Petroleum Industry Environmental Conservation Association[66] and the International Council on Mining and Metals[67] also actively promote implementation of the Guiding Principles within their respective sectors, and have developed a range of practical tools to support business enterprises in that regard — which also provide useful references for small and medium-sized enterprises.

55. Business initiatives and associations can take active leadership roles in conveying to their members that implementing the Guiding Principles is in their interest and can play prominent roles promoting human rights throughout the world, because of their reach and considerable size. Given that global reach, it is imperative that business initiatives and associates work with all stakeholders and human rights actors to help advance the implementation of the Guiding Principles.

56. Joining with other firms in own-supply chain relationships could also lead to greater respect by small and medium-sized enterprises for human rights. Those that are members of many business networks and associations perceive their social and environmental responsibilities as more important.[68] Networks can also help to engage enterprises holistically, with approaches tailored for specific sectors.

F. Role of international organizations

57. The above-mentioned report of International Organization of Employers and ILO highlighted that small and medium-sized enterprises expected international organizations to: share information about challenges and best practices globally and regionally (79 per cent); promote business respect for human rights and, where requested, help States meet their duty to protect against human rights abuses by business enterprises (67 per cent); develop the capacity and raising the awareness of their member States (54 per cent); and provide opportunities to participate in the activities of international organizations (49 per cent).

58. However, the majority of tools aimed at supporting the development of small and medium-sized enterprises and their responsible conduct currently do not incorporate the Guiding Principles. Thus, there is considerable scope for progress by addressing this gap. Below are some of the many tools that are designed to help such enterprises to implement policy frameworks, including how to assess strengths and weaknesses through policy design and implementation, and which should align with the Guiding Principles.

59. The OECD Small and Medium-Sized Enterprises Policy Index,[69] created in 2006 in partnership with the European Commission, the European Bank for Reconstruction and Development and the European Training Foundation, was designed as a tool to assess the policy frameworks of small and medium-sized enterprises in emerging economies and monitor progress in policy implementation over time. It allows for comparison across countries and measures convergence towards good practices and relevant policy standards that support Governments in setting targets for policy development helping to identify strategic priorities for improving business environment.[70] Ensuring integration of the Guiding Principles and references to relevant tools for Governments and enterprises would help to strengthen policy coherence and reinforce efforts to promote implementation of the Guiding Principles.

60. The International Trade Centre's (ITC) is the only multilateral agency fully dedicated to supporting the internationalization of small and medium-sized enterprises, with a particular geographical focus on doing so in the least developed countries. In order to achieve their mandate the ITC has developed a "Market Analysis Tools portal" which is

[66] See www.ipieca.org/about-us.

[67] See www.icmm.com/en-gb/about-us.

[68] See United Kingdom Department of Trade and Industry, *Engaging SMEs in Community and Social Issues* (London, 2002).

[69] Available from www.oecd.org/globalrelations/smallandmedium-sizedenterprisesmepolicyindex.htm.

[70] See www.oecd.org/globalrelations/smallandmedium-sizedenterprisesmepolicyindex.htm.

"the access point to one of the world's largest databases on trade statistics, tariff data, foreign direct investment data and voluntary standards".[71] The ITC portal allows these enterprises to have access to five individual tools that improve transparency through business analysis. The tools furthermore; "enable business enterprises and trade support institutions to identify export and import opportunities and compare market-access requirements that help policymakers monitor national trade performance and prepare for trade negotiations".[72] The tools centre around mapping exercise for enterprises and include a trade, market access, investment, competitiveness and standards map that allow business enterprises to view information on: trade statistics, tariffs and market requirements, foreign direct investment data, voluntary standards, public tender information, market analysis studies, capacity-building in market analysis, and trade competitiveness. The ITC tools thus provide yet another entry point to support the uptake by small and medium-sized enterprises of the Guiding Principles and should incorporate them.

61. ILO has also developed a number of business initiatives aimed at supporting small and medium-sized enterprises and entrepreneurs through training programmes, business practices and statistical data under the umbrella of the "Start and Improve Your Business Programme". The Programme claims to be the largest global business management training programme with a focus on starting and improving businesses as a strategy for creating more and better employment for women and men.[73] Under the Programme, ILO offers a range of publications, brochures, evidence based articles and news-based resources aimed at supporting sustainable development goals by promoting: (a) business development policies that support decent job creation and entrepreneurship and encourage the growth of micro-, small and medium-sized enterprises; and (b) productive employment and decent work for all, including young people and persons with disabilities. With the 2017 revision of its Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (see para. 19), which incorporates the Guiding Principles, ILO will play a particularly important role in supporting action on small and medium-sized enterprises that is aligned with the Guiding Principles and in providing a key reference for transnational corporations in their role to respect human rights throughout global valued chains.

62. The United Nations Conference on Trade and Development (UNCTAD) through its Enterprise Development Branch, has designed a number of training programmes on policies for small and medium-sized enterprises, as well as capacity-building efforts to empower individuals from developing countries. These include the EMPRETEC programme,[74] entrepreneurship training, the Entrepreneurship Policy Framework and Implementation Guidance,[75] the Business Linkage Programme,[76] and the e-Tourism Initiative.[77] UNCTAD has also developed a number of transparency and accountancy programmes to help small and medium-sized enterprises, for example, on corporate responsibility reporting, and accounting.

63. Among regional organizations, the European Commission, in addition to offering specific guidance for small and medium-sized enterprises, has prepared a number of sectoral guides[78] that provide direction for businesses to implement the Guiding Principles.

64. Many of the existing tools available to small and medium-sized enterprises allow them not only to analyse critically their shortcoming but also to utilize their capacity-building programmes. The ILO Sustaining Competitive and Responsible Enterprises

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[71] See www.intracen.org/itc/market-info-tools/market-analysis-tools/.

[72] Ibid.

[73] See www.ilo.org/empent/areas/start-and-improve-your-business/lang--en/index.htm.

[74] See http://empretec.unctad.org/.

[75] See http://unctad.org/en/Pages/DIAE/Entrepreneurship/Entrepreneurship-Policy-Framework-and-Implementation-Guidance.aspx.

[76] See http://unctad.org/en/Pages/DIAE/Enterprise%20Development/Business-Linkage-Programme.aspx.

[77] See http://unctad.org/en/Docs/tdxipbd6_en.pdf.

[78] https://ec.europa.eu/anti-trafficking/publications/european-commission-sector-guides-implementing-un-guiding-principles-business-and-hum-0_en.

programme[79] provides global technical assistance to help such enterprises develop and create decent work. The overall objective of the programme is to assist them in becoming more sustainable by being cleaner, more productive and competitive, and by providing more sustainable and decent work. Through the ILO programme, enterprises are expected to: improve worksite management and reduce unnecessary work by implementing "5S" organization systems in order to: (a) improve quality and productivity; (b) improve human resource management abilities and create a better communication environment for both management and workers; (c) boost corporate responsibility through environment management and cleaner production so as to achieve higher economic returns; (d) improve occupational health and safety management; and (e) create a better work environment.[80]

65. The above-mentioned report of the International Organization of Employers and ILO highlighted the limitations of external advice and guidance for small and medium-sized enterprises. For example, it found that participants in the above-mentioned ILO programme reported that any offering aimed at smaller enterprises should be made available in small, easily digestible doses and be highly relevant and applicable to business needs.[81] That conclusion was reached as the survey found that most small and medium-sized enterprises only had the managerial capacity to comply with the day-to-day running of the business, and little time was available for business development or off-site capacity-building training events. It also found that they tended to underestimate the benefits of external advice because they were not regularly exposed to international best practices, even when that advice would increase productivity and improve their human rights standards and practices. Furthermore, it found that capacity-building programmes should explain in clear and practical language what they offered and the benefits that small and medium-sized enterprises could derive from their services. Testimonials from fellow chief executives and managers were considered best at convincing enterprises that it was worth investing their time and resources in a training programme.

66. The 2030 Agenda for Sustainable Development and the Sustainable Development Goals, adopted by the General Assembly in September 2015, foresee a significant role for business enterprises, including small and medium-sized enterprises. In its resolution 70/1, the General Assembly called upon all businesses to apply their creativity and innovation to solving sustainable development challenges, while acknowledging the diversity of the private sector, ranging from micro-enterprises to cooperatives to multinationals. In the resolution, States committed to fostering a dynamic and well-functioning business sector, while protecting labour rights and environmental and health standards in accordance with relevant international standards and agreements and other ongoing initiatives in this regard, such as the Guiding Principles. United Nations programmes and agencies can play an important role in translating human rights into practical guidance that can be used by small and medium-sized enterprises. For example, guidance material for the implementation of Goal 5 of the Sustainable Development Goals, on gender equality, should assist those enterprises that are looking to improve gender equality within its workplace.

III. Conclusions and recommendations

A. Conclusions

67. **While implementation of the Guiding Principles on Business and Human Rights by small and medium-sized enterprises has been lagging, and these enterprises have been largely absent from discussions at the international level about advancing implementation of the Guiding Principles, the present report shows that relatively modest actions by a range of actors could go a long way in beginning to address that gap. Adjustments in the communications by key interlocutors — such as government**

[79] See www.ilo.org/empent/Projects/score/lang--en/index.htm.

[80] See www.ilo.org/jakarta/whatwedo/projects/WCMS_160240/lang--en/index.htm.

[81] See www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---ifp_seed/documents/publication/wcms_535220.pdf.

departments responsible for the supervision and regulation of such enterprises, as well as other corporate enterprises that form part of their supply and value chains and international organizations that run programmes aimed at smaller enterprises — could also make a significant contribution in addressing the awareness gap. However, an initial challenge remains in the level of awareness of the Guiding Principles in government departments, especially those that focus on economic growth, as those governmental institutions tend to see their role as supporting small and medium-sized enterprises to deliver economic outcomes with rather little interest in social responsibility. Thus, government action and efforts by international organizations are particularly needed to tackle this challenge, which essentially is captured in Principle 8, namely, that States should ensure that governmental departments, agencies and other State-based institutions that shape business practices are aware of and observe the State's human rights obligations when fulfilling their respective mandates, including by providing them with relevant information, training and support.[82]

68. Larger transnational corporations, which are most often the "lead" business enterprises in the supply chains in which many small and medium-sized enterprises operate, also have an important role in sharing knowledge and lessons concerning the implementation of the Guiding Principles (although most larger business enterprises are also still at an early stage of the journey to implement the Guiding Principles), and to incentivize compliance with the Guiding Principles through supplier codes of conduct and contractual clauses.

69. In essence, there is an urgent need for strategic leadership, both from governmental institutions and agencies and from within the business community, in order to reach scale in the implementation by small and medium-sized enterprises of the Guiding Principles. In that regard, it is important to consider that these enterprises are not just a scaled-down version of a large firm[83] and take into account the realities they face, which vary greatly across countries and sectors. An effective strategy has to take account of their handicaps, including their resource poverty, limited market share, predominantly informal economy actor (in many, but not all jurisdictions), and relationships with other entities.

70. By developing national action plans, Governments have an opportunity to raise awareness about the human rights responsibilities of small and medium-sized enterprises in a national context and to clarify that the Guiding Principles apply to all enterprises.

71. More accessible and user-friendly information and practical tools will be a good starting point for the essential awareness-raising on human rights responsibilities that needs to happen in virtually all economies. This should be complemented by continuing learning opportunities including training workshops — peer learning programmes that apply the "how-to" approach. Specific programmes on the nature and expectations of international standards for responsible business and sustainable development need to integrate the Guiding Principles.

B. Recommendations

72. In the present report, the Working Group suggests a number of targeted recommendations for States and for other stakeholders, including small and medium-sized enterprises. It welcomes feedback from States and other stakeholders on the report and on the recommendations below.

73. The Working Group recommends that States:

(a) Recognize that as part of their duty to protect human rights from business-related human rights abuse, they will take steps to raise awareness about the implications of the Guiding Principles for small and medium-sized enterprises and

[82] See www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

[83] See "A Small Business Is Not a Little Big Business" (footnote 12 above).

incentivize them to implement the Guiding Principles through a mix of mandatory and voluntary measures;

(b) Provide dedicated support for small and medium-sized enterprises in the implementation of the Guiding Principles, including by translating the requirements therein to the local context and providing practice-based capacity-building opportunities for the implementation of the Guiding Principles in collaboration with other stakeholders;

(c) Embed the standards of the Guiding Principles into existing processes and platforms for supporting small and medium-sized enterprises in order to achieve more effective policy coherence across government policies and departments;

(d) Integrate the Guiding Principles in business relationships with small and medium-sized enterprises — by requiring respect for human rights in public procurement processes from those enterprises that benefit from government loans, subsidies and financial services — and in the supply chains and business relationships of State-owned companies;

(e) Involve small and medium-sized enterprises in the development of national action plans for business and human rights as an avenue by which to increase their awareness and communicate the expectations of such enterprises;

(f) Include opportunities to support the implementation of the Guiding Principles in guidance and standards of their development agencies;

(g) Provide dedicated support for small and medium-sized enterprises in the implementation of the Guiding Principles, including by simplifying the requirements of Guiding Principles and providing capacity-building opportunities;

(h) Embed the standards of the Guiding Principles into existing processes and platforms for supporting and incentivizing small and medium-sized enterprises to implement the Guiding Principles;

(i) Work with Government development agencies to include opportunities to support the implementation of the Guiding Principles in their standards;

(j) Create opportunities for more small and medium-sized enterprises to transition from the informal to the formal sector so that they may be fully supported in the implementation of the Guiding Principles.

74. The Working Group recommends that small and medium-sized enterprises:

(a) Seek support from employer and industry associations to learn about international standards and practical tools for implementing the responsibility to respect human rights and engage in peer learning networks;

(b) Draw on lessons from established compliance mechanisms, including environmental sustainability, health and safety, anti-corruption and anti-trafficking;

(c) Use existing social responsibility processes — including Global Compact reporting, sustainability reporting (such as the Global Reporting Initiative), national and international certification standards (such as ISO 26000) — as platforms for implementing the Guiding Principles;

(d) Draw on lessons from established compliance mechanisms and programmes, including environmental sustainability, health and safety, anti-corruption and anti-trafficking;

(e) Utilize peer support systems within and across different sectors to share knowledge, experiences and the implementation of the Guiding Principles.

75. The Working Group recommends that transnational corporations:

(a) Incentivize respect for human rights in business relationships with small and medium-sized enterprises by integrating the Guiding Principles in supplier codes of conduct and contractual clauses;

(b) **Provide guidance and capacity-building for subsidiaries, partners and other business relationships involving small and medium-sized enterprises on the implementation of the Guiding Principles;**

(c) **Provide guidance to small and medium-sized enterprise partners on best practices towards the implementation of the Guiding Principles;**

(d) **Utilize their strategic position to assist their small and medium-sized enterprise members through capacity-building and training programmes.**

76. **The Working Group recommends that business and peer group associations:**

(a) **Raise awareness on the responsibility to respect of human rights throughout their membership and support development of practical tools for small and medium-sized enterprises that reflect their particular situation in the given context and sector;**

(b) **Support and ensure the respect of human rights, including the implementation of the Guiding Principles throughout their supply chains;**

(c) **Use their considerable memberships to promote the Guiding Principles through all forms of communications and inform their members of the latest human rights developments;**

(d) **Promote enhanced competitiveness by improving standards that are linked to incentives throughout the market within which small and medium-sized enterprises operate.**

77. **The Working Group recommends that international organizations and the United Nations system:**

(a) **Integrate the Guiding Principles in tools and guidance and capacity-building aimed at small and medium-sized enterprises;**

(b) **Work toward clarifying standards and simplifying the Guiding Principles for small and medium-sized enterprises;**

(c) **Take a leadership role in creating collaborator initiatives that aim to build up knowledge sharing through the involvement of small and medium-sized enterprises in their activities;**

(d) **Continue to work with States and businesses in order to provide special assistance to small and medium-sized enterprises from the least developed countries and to align such guidance and assistance with the Guiding Principles;**

(e) **Develop and provide online and offline training courses to increase the awareness of the Guiding Principles and their relevance to business.**

78. **The Working Group recommends that academia, trade unions and civil society organizations:**

(a) **Raise the importance that small and medium-sized enterprises implement the Guiding Principles in relevant forums, such as national action plan processes;**

(b) **Support the development of tools aimed at implementation of the Guiding Principles by small and medium-sized enterprises, in order to ensure that such tools take into account the reality of human rights challenges and perspectives of victims in the respective context;**

(c) **Dedicate increased attention to small and medium-sized enterprises, with a view to improving human rights, through access to remedy and accountability programmes that highlight national and international law;**

(d) **Gather targeted data for small and medium-sized enterprises and their human rights obligations and performance, in order to identify gaps and good practices globally;**

(e) **Provide capacity-building programmes aimed at protecting and promoting human rights.**